

in Congress. I also understand that this will be an ongoing discussion. I am sensitive to the concerns raised by my colleagues on the constitutionality of our actions.

Legal scholars have testified before the Homeland Security and Governmental Affairs Committee and the Senate Judiciary Committee that Congress does have the constitutional authority to extend a vote to a District Representative in the House. I believe this legislation is constitutional, but ultimately it is the role of the courts to decide.

Our representative democracy is based on the principle that citizens of this country should have a say in the laws that govern this country. If citizens disagree with the laws, they have the power to vote for different representatives. By extending this core principle to the District of Columbia, I believe this bill would be a decisive step forward for the rights of DC residents.

#### AMENDMENT NO. 575

Now I wish to address the pending Ensign amendment.

Today, we are addressing voting rights. Now is not an appropriate time to cloud the debate with amendments on gun control. Last year, when this gun issue was brought up on the Senate floor before being considered by the committee, I joined 10 of my colleagues in a letter to the majority leader asking that the bill follow Senate procedures and be referred to committee before consideration on the floor.

As the chairman of the subcommittee charged with the oversight of the District of Columbia, I am familiar with the debate on DC's gun policies. Last year, the U.S. Supreme Court in the Heller decision struck down the District of Columbia's gun ban. Since then, the DC City Council has taken necessary steps to comply with the Supreme Court's decision, including the passage of legislation to address issues raised by the ruling. I do not believe any congressional action is needed to help DC comply with the Heller decision, but, more importantly, this is not the appropriate time to consider and vote on this issue.

I am not against gun ownership. I am for self-determination. I strongly encourage my colleagues to give the District of Columbia and its citizens the opportunity to vote on and establish their own rules regarding gun control. It would be ironic if we were to with one hand finally give the people of the District voting representation but on the other hand take away their right to self-determination by forcing them to adopt a gun control policy on which they were unable to vote. I, therefore, urge my colleagues to vote no on the Ensign amendment and all related amendments.

I am proud to lend my support for the underlying bill. I urge my colleagues to vote in support of voting rights for the residents of the District of Columbia and to reject any amend-

ment that would abridge those rights or is not germane to the issue at hand.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I have a unanimous consent agreement to propound which has been cleared on both sides.

I ask unanimous consent that when the Senate resumes consideration of S. 160 on Thursday, February 26, the time until 10:30 a.m. be for debate with respect to the Kyl amendment No. 585, with the time equally divided and controlled between Senators KYL and LIEBERMAN or their designees, with no amendment in order to the amendment prior to the vote, and that at 10:30 a.m. the Senate proceed to vote in relation to the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BEGICH). Without objection, it is so ordered.

#### CLOTURE MOTION

Mr. REID. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 160, the District of Columbia House Voting Rights Act of 2009.

Harry Reid, Richard Durbin, Sheldon Whitehouse, Jeanne Shaheen, Patty Murray, Bernard Sanders, Roland W. Burris, Charles E. Schumer, Debbie Stabenow, Barbara A. Mikulski, Bill Nelson, John F. Kerry, Christopher J. Dodd, Frank R. Lautenberg, Jeff Bingaman, Amy Klobuchar, Robert Menendez, Barbara Boxer.

Mr. REID. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I would like to announce to everyone where we are in regard to this bill. We have been working through the amendments. Senator LIEBERMAN has done a terrific

job. I understand there will be a few more that may be offered. We expect to have votes throughout Thursday on pending amendments, and those that are offered on Thursday we are going to try to dispose of those tomorrow.

I filed cloture today, but I hope it isn't necessary to have this cloture vote. However, if necessary, we will look forward to seeing if we can get a consent agreement to have the vote tomorrow; otherwise, we are going to wind up coming in Friday morning. I hope that is not necessary. This is a piece of legislation that has been talked about for a long time. We have had it on the Senate floor before. I think everyone has had the ability to offer whatever they believe is appropriate.

I really express my appreciation for the cooperation of all Members, both Democrats and Republicans, but especially Senator KYL, who did some very good work with Senator LIEBERMAN this afternoon.

#### MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that we now proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### COMMISSION OF INQUIRY

Mr. LEAHY. When historians look back at the last 8 years, they are going to evaluate one of the most secretive administrations in the history of the United States. Now, the citizens of this country have said we should have change, and we should. But we also know that the past can be prologue unless we set things right.

In the last administration, there was a justification for torture. It presided over the abuse at Abu Ghraib, destroyed tapes of harsh interrogations, and conducted extraordinary renditions that sent people to countries that permit torture during interrogation.

They used the Justice Department, our premiere law enforcement agency, to subvert the intent of congressional statutes, even to subvert nonpartisan prosecutions, and instead to use them in partisan ways to try to affect the outcome of elections. They wrote secret law to give themselves legal cover for these misguided policies, policies that could not withstand scrutiny if brought to light.

Nothing has done more to damage America's standing and moral authority than the revelation that during the last 8 years we abandoned our historic commitment to human rights by repeatedly stretching the law and the bounds of Executive power to authorize torture and cruel treatment.

As President Obama said to Congress and the American people last night, "if we're honest with ourselves, we'll

admit that for too long we have not always met" our responsibilities.

Now, the President said that about the economy, but the same holds true here. It is only by understanding how we arrived at this moment that we can move forward. How can we restore our moral leadership and ensure transparent government if we ignore what has happened?

There has been discussion, and in some cases disagreement, on how best to do this. There are some who resist any effort to investigate the misdeeds of the recent past. Indeed, some have tried to extract a devil's bargain from Attorney General Holder, a commitment that he would not prosecute for anything that happened on President Bush's watch. That is a pledge no prosecutor should give, and, to his credit, Eric Holder did not.

There are others who say that regardless of the cost in time, resources, and unity, we have to prosecute these administration officials to lay down a marker. The courts are already considering congressional subpoenas that have been issued and claims of privilege and legal immunities, and they will for some time.

Over my objections, Congress has already passed laws granting immunity to those who facilitated warrantless wiretapping and conducted cruel interrogations. The Department of Justice issued legal opinions justifying these executive branch excesses which, while legally faulty, would undermine attempts to prosecute. A failed attempt to prosecute for this conduct might be the worst result of all if it is seen as justifying abhorrent actions. Given the steps Congress and the executive have already taken to shield this conduct from accountability, that is a possible outcome.

The alternative to these approaches is a middle ground, a middle ground I spoke of at Georgetown University a little over 2 weeks ago. That middle ground would involve the formation of a commission of inquiry dedicated to finding out what happened. Such a commission's objective would be to find the truth. People would be invited to come forward and share their knowledge and experiences, not for the purpose of constructing criminal indictments, but to assemble the facts, to know what happened and to make sure mistakes are not repeated.

I have seen what happened before in prosecutions. We don't find the full truth. We prosecute those at the bottom of the chair of command, but we don't find out what those above did.

While many are focused on whether crimes were committed, it is just as important to learn if significant mistakes were made, regardless of whether they can be proven beyond a reasonable doubt to a unanimous jury to be criminal conduct. We compound the serious mistakes already made if we limit our inquiry to criminal investigations and trials. Moreover, it is easier for prosecutors to net those far down the lad-

der than those at the top who set the tone and the policies. We do not yet know the full extent of our government's actions in these areas, and we must be sure that an independent review goes beyond the question of whether crimes were committed, to the equally important assessment of whether mistakes were made so we may endeavor not to repeat them. As I have said, we must read the page before we turn it.

Vice President Dick Cheney continues to assert unilaterally that the Bush administration's tactics, including torture, were appropriate and effective. But interested parties' characterizations and self-serving conclusions are not facts and are not the unadulterated truth. We cannot let those be the only voices heard, nor allow their declarations to serve as historical conclusions on such important questions. An independent commission can undertake this broader and fundamental task.

I am talking about this process with others in Congress, with outside groups and experts, and I have begun to discuss this with the White House as well. I am not interested in a commission of inquiry comprised of partisans, intent on advancing partisan conclusions. Rather, we need an independent inquiry that is beyond reproach and outside of partisan politics to pursue and find the truth. Such a commission would focus primarily on the subjects of national security and executive power in the government's counterterrorism effort. We have had successful oversight in some areas, but on these issues, including harsh interrogation tactics, extraordinary rendition and executive override of the laws, the last administration successfully kept many of us in the dark about what happened and why.

President Obama issued significant executive orders in his first days in office, looking to close Guantanamo and secret prisons, banning the use of harsh interrogation techniques and forming task forces to review our detainee and interrogation policies. I support his decisions, and I am greatly encouraged by his determination to do the hard work to determine how we can reform policies in these areas to be lawful, effective and consistent with American values. My proposal for a commission of inquiry would address the rest of the picture, which is to understand how these types of policies were formed and exercised in the last administration, to ensure that mistakes are not repeated. I am open to good ideas from all sides as to the best way to set up such a commission and to define its scope and goals.

A recent Gallup poll showed that 62 percent of Americans favor an investigation of these very issues. Respected groups including Human Rights First, the Constitution Project and thoughtful Senators, including Senator WHITEHOUSE and Senator FEINGOLD, have also embraced this idea. The de-

termination to look beyond the veil that has so carefully concealed the decision making in these areas is growing. Next Wednesday, the Judiciary Committee will hold a hearing to explore these ideas and to continue the conversation about what we can do moving forward.

Two years ago I described the scandals at the Bush-Cheney-Gonzales Justice Department as the worst since Watergate. They were. We are still digging out from the debris they left behind while those in the last administration continue to defend their policies, knowing full well that we do not even know the full extent of what those policies were or how they were made. We cannot be afraid to understand what we have done if we are to remain a nation equally vigilant in defending both our national security and our Constitution. I hope all Members of Congress will give serious consideration to these difficult questions.

I argue it will be the quintessential American thing to do.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, during my brief tenure so far in the Senate, the Judiciary Committee has confronted many difficult issues, battles over judicial nominees, complex legislative matters, a historic investigation into misdeeds of the Bush administration's Department of Justice. In that process, the committee saw U.S. attorneys fired for political reasons, the Civil Rights Division run amok, declassified legal theories asserting that the President can secretly ignore his own executive orders. We saw unprecedented politicization of a noble department, and we saw those Office of Legal Counsel memos approving interrogation techniques long understood, long known to be torture. Fortunately, throughout that time, Chairman LEAHY sought answers. His efforts were evenhanded but unyielding. We know so much of what we know now because PATRICK LEAHY was satisfied with nothing less than the whole truth.

Today his work continues, and I wish to speak in support of his efforts. The backdrop is, of course, a grim one. Over and over, as I travel around my State of Rhode Island, I hear from people facing challenges that seem almost insurmountable, challenges President Obama spoke about in his address to Congress last evening. Every day it gets harder and harder to find a job, to pay the bills, to make ends meet. Every day it seems more difficult to see a way out. The Bush administration left our country deeply in debt, bleeding jobs overseas, our financial institutions rotten and weakened and an economy in free-fall. This is the wreckage we see everywhere, in shuttered plants, as my colleague from Pennsylvania sees at home so cruelly, in long lines, and in worried faces. But there is also the damage we cannot see so well, the damage below the water line of our democracy, damage caused by a systematic effort to twist policy to suit

political ends; to substitute ideology for science, fact, and law; and to misuse instruments of power.

If an administration rigged the intelligence process and, on faulty intelligence, sent our country to war, if an administration descended to interrogation techniques of the Inquisition, of Pol Pot and the Khmer Rouge, descended to techniques that we have prosecuted as crimes in military tribunals and in Federal courts, if institutions as noble as the Department of Justice and as vital as the Environmental Protection Agency were subverted by their own leaders, if the integrity of our markets and the fiscal security of our budget were open wide to the frenzied greed of corporations and speculators and contractors, if taxpayers were cheated and the forces of the Government rode to the rescue of the cheaters and punished the whistleblowers, if our Government turned the guns of official secrecy against our own people to mislead, confuse, and propagandize them, if the integrity of public officials, the warnings of science, the honesty of Government procedures and the careful historic balance of our separated powers all were seen as obstacles to be overcome and not attributes to be celebrated, if the purpose of Government became no longer to solve problems but simply to work them for political advantage, and a bodyguard of lies and jargon and propaganda was emitted to fool and beguile the American people, something very serious would have gone wrong in our country.

Such damage must be repaired. I submit that as we begin the task of rebuilding this Nation, we have a duty to our country to determine how great that damage is. Democracy is not a static institution. It is a living education, an ongoing education in freedom of a people.

As Harry Truman said, addressing a joint session of Congress back in 1947:

One of the chief virtues of a democracy is that its defects are always visible, and under democratic processes can be pointed out and corrected.

We have to learn the lessons from this past carnival of folly, greed, lies, and wrongdoing so the damage can, under democratic processes, be pointed out and corrected. If we bind ourselves to this history, we deny ourselves its lessons, lessons that came at too painful a cost to ignore.

Those lessons merit disclosure and discussion. Indeed, disclosure and discussion makes the difference between this history being a valuable lesson for the bright and upward forces of our democracy or a blueprint for those darker forces to return and someday do it all over again. As we work toward a brighter future ahead, to days when jobs return to our cities, capital to our businesses, and security to our lives, we cannot set aside our responsibility to take an accounting of where we are, what was done, and what must now be repaired. We also have to brace ourselves for the realistic possibility that

as some of this conduct is exposed, we and the world will find it shameful, revolting. We may have to face the prospect of looking with horror at our own country's deeds.

We are optimists, we Americans. We are proud of our country. Contrition comes hard to us. But the path back from the dark side may lead us down some unfamiliar valleys of remorse and repugnance before we can return to the light. We may have to face our fellow Americans saying to us: No, please, tell us we did not do that, tell us Americans did not do that. And we will have to explain somehow.

This is no small feat and not easy. This will not be comfortable or proud, but somehow it must be done.

Chairman LEAHY has embarked on the process of considering a new commission, one appropriate to the task of investigating the damage the Bush administration did to America, to her finest traditions and institutions, to her reputation and integrity. The hearing he has called in coming days will more thoroughly examine this question to help us determine how best to move forward. I stand with him. Before we can repair the harm of the last 8 years, we must learn the truth.

#### REMEMBERING LARRY H. MILLER

Mr. BENNETT. Mr. President, I wish to speak of one of Utah's most outstanding citizens, Larry H. Miller, who passed away recently.

Larry Miller is a true American success story. He graduated from high school. He wasn't able to cut it in college and ended up working in a parts department in an auto dealership. Not a very auspicious beginning for someone who became a billionaire, but Larry Miller had two things that many people do not have. No. 1, he had in effect a photographic memory. I understand that if you went to Larry Miller while he was running this parts department and asked for an axle or for a head lamp or for any other auto part, he knew exactly where it was. Somehow he had that in his head and he made a tremendous success out of that. He ultimately began his career by buying an auto dealership and then built a string of 40 auto dealerships.

The other thing he had was an incredible work ethic. Larry Miller worked hard every day and demanded that kind of performance from those who worked with him.

He is best known in Utah for the fact that he was the minority owner of the Utah Jazz, the NBA's least successful team financially. The Jazz reached the point where they had to be sold because they couldn't survive anymore. They were losing money at every turn. The majority partner made a deal whereby the franchise would be sold to someone outside of the State. As minority partner, Larry Miller was required to sign the deal. He picked up the pen to sign the deal and then he couldn't bring himself to sign it, and

he turned to the majority partner and said, Sam, I can't do it. So he bought the majority partner out, kept the Jazz in Utah, and then he presided over the revival of the Jazz. They won more games. They have been in the playoffs more than most people. They have been to the national finals twice and the only reason they haven't won an NBA national championship is because the Chicago Bulls had Michael Jordan at the time. Against any other team or any other star, the Jazz would have won the NBA championship. I remember the last failed game very well, and the shot Jordan put up that won the game that was fantastic, but that was Jordan's legacy.

Larry Miller is known for all of these things, but that is not how I wish to remember him before the Senate here today, because this man, who was a philanthropist and gave his money to community colleges to help people who were more like him in terms of their academic needs, became in his later years a history buff. He fell in love with the Founding Fathers. I remember talking to Larry Miller about John Adams, about Thomas Jefferson, and recommending a book to him. He had just read McCullough's book on John Adams and I said, Have you read Joseph Ellis's book, "Founding Brothers"? He said, no. I said, I will send it to you. I got caught up in all of my difficulties and all of my distractions and realized I had failed to keep my word. So finally, with some embarrassment, I got hold of Larry and said, I apologize I have not sent you a copy of "Founding Brothers." He said, that is all right, Senator. I went out and bought one on my own. He followed through where I didn't.

He fell in love with this country, not as an entrepreneur, although he did that way; not as someone who had been very successful and blessed by this country, although he did that way; but toward the end of his life he fell in love with this country as one who studied its history and understood its underpinnings. He was generous. He was inventive. He was tenacious. The people of Utah have been more than blessed by the fact that he chose Utah as his home. We miss him terribly and extend our deepest sympathies to his family.

#### SPECIAL COMMITTEE ON AGING

Mr. KOHL. Mr. President, I ask unanimous consent to have the rules of procedure for the Special Committee on Aging printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

#### SPECIAL COMMITTEE ON AGING—JURISDICTION AND AUTHORITY

*S. Res. 4, §104, 95th Congress, 1st Session (1977)*

(a)(1) There is established a Special Committee on Aging (hereafter in this section referred to as the "special committee") which shall consist of nineteen Members. The Members and chairman of the special committee